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COMMITTEE ON THE RIGHTS OF THE CHILD

Tenth session

SUMMARY RECORD OF THE 256th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 14 November 1995, at 3 p.m.

Chairperson: Mrs. BELEMBAOGO

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Holy See (continued) (CRC/C/3/Add.27)

1. At the invitation of the Chairperson, Monsignor Tabet, Father Roch, Mr. Buonomo and Monsignor Carrascosa (Holy See) took places at the Committee table.

2. Father ROCH (Holy See) apologized if he had misunderstood the point raised by Mrs. Badran at the previous meeting. Any divergences between the cultural values of other countries and the values upheld by the Holy See should be examined in a spirit of partnership and dialogue, in the hope of arriving at a pragmatic solution which would respect the positions of both sides. He was well aware that many third world countries were concerned to promote the rights of the child.

3. In reply to the question raised by Mrs. Santos Pais, the Catholic Church was aware that it was regarded by its followers as the moral conscience of communities and even of countries. However, each individual was free to interpret the Church's message in his own way. The particular question of school curricula was primarily for Governments to decide, although the Church could make a certain contribution. He agreed that there was need to ensure that children were made aware of their rights and that, accordingly, translations of the Convention were of great importance. However, the compiling of such translations was not primarily the responsibility of the Church, although it was ready to do all it could to assist.

4. On the point made by Mr. Kolosov, he said that article 5 of the Convention, on respect by States for the rights of parents to give direction and guidance, was closely linked with article 12, on the rights of the child to express its views, and indeed the two articles were complementary.

5. Lastly, in reply to Mrs. Eufemio's question whether the Church gave advice to engaged couples with a view to preventing any future annulment of marriages, he said that it was traditional in the Catholic Church to prepare couples for marriage by talks covering all aspects of married life. He believed the Church's efforts in that area should be continued and even extended.

6. Mr. BUONOMO (Holy See) pointed out that the Church did not have the power to annul a marriage which had been celebrated in accordance with its own laws. It could declare a marriage null and void, which meant that in legal terms it had never existed, but such a declaration could never be a cause of discrimination against children. In any event, only a very small number of cases were involved: only 0.02 per cent of all Catholic marriages worldwide were declared null and void.

7. In reply to Mrs. Karp, he said that there was a certain hierarchy in the juridical structure of the Catholic Church. At the base of the hierarchy were the codes of Canon law: next came encyclicals, sent out by the Holy See to all Catholics and documents issued by various Episcopal Conferences.

Documents signed by the Pope himself would rank higher in the hierarchy than documents signed by an official of the Vatican administration. Recently, there had been a certain evolution in the Church's thinking about the right to freedom of religion, especially where the child was concerned.

8. Miss Mason had drawn attention to the need for a Charter on the Rights of the Child. He was pleased to state that, in January 1996, the Holy See was to produce a document on the theme of the child to celebrate World Peace Day. That document would make reference to the situation of children who were victims of domestic violence, armed conflicts and various forms of exploitation and was based on the principles embodied in the Convention.

9. The CHAIRPERSON, summing up the debate, said the Committee had expressed concern at the reservations made by the Holy See on ratifying the Convention and had asked for clarification. The discussion had touched on the relations of the Holy See with institutions subject to its jurisdiction in different States and on ways in which the implementation of the Convention could be coordinated and information on it could be disseminated. While recognizing that it was for States parties themselves to fulfil their obligations under the Convention, all members of the Committee had agreed that the Holy See could use its influence to encourage States to implement the Committee's recommendations. The Holy See had already played a valuable role in urging States to ratify the Convention and the Committee believed it could also help by encouraging States to ensure that the Convention was translated into national languages and included in school curricula.

10. The Committee had laid stress on the right of the child to freedom of religion, to freedom of expression and to have its views taken into consideration. It had urged that the exercise of the rights of parents should not be such as to jeopardize the right of the child to participation in its own development.

11. Mr. KOLOSOV noted that the representative of the Holy See had stated that there were no children in the territory of the Vatican. Did that mean that there were in fact no juveniles below the age of 18 in the service of the Vatican administration?

12. Mention had been made of the so-called moral jurisdiction of the Holy See over Catholics in various countries. From the legal viewpoint, would the jurisdiction of Italy or the jurisdiction of the Vatican apply if, for instance, a juvenile who was a national of another country committed an offence within the territory of the Vatican itself?

13. Mr. MOMBESHORA said that he greatly appreciated the contribution made by the Catholic Church in the field of health in many African countries. However, the Church was known to be opposed in principle to family planning. As he saw it, family planning was a tool for ensuring the health and welfare of both mother and child.

14. He understood that the Church did favour the prevention of conception by means of the use of the "safe period" method, but not by the use of other methods. He would appreciate hearing the delegation's views on that point.

15. Miss MASON said it was a well-known fact that Catholic families in the upper echelons of society tended to have only a few children, whereas, in the lower echelons of society, families were much larger. Had any research been done into the reasons for that situation and did it imply that better-off families were not applying the Church's teaching and were thus cheating?

16. Since the Church's position was that the guidance and protection of children was the inalienable right of the family, what were its views on corporal punishment? In cases of sexual abuse within the family, what was the policy of the Holy See on the child's right to alternative care? Lastly, in cases where the parents of a child separated and the child had to be removed from an educational establishment, was it the policy of the Holy See or the policy of the establishment that took precedence?

17. Monsignor CARRASCOSA (Holy See), replying to questions raised by Mr. Kolosov, said, firstly, that the Holy See employed no one under the age of 18. Secondly, under the judicial arrangements in effect between the Holy See and Italy, crimes committed in the territory of the Vatican were tried before Italian courts. For example, when the Pope had been attacked in the Piazza in front of St. Peter's Cathedral in 1981, the case had been tried by Italy.

18. Replying to a question put by Mr. Mombeshora, he said that the Holy See was not opposed to family planning; the term it preferred, however, was "responsible planning of family size". Nor was it Church doctrine that a couple should seek to produce as many children as possible; it should instead examine its responsibility before God, society and existing family members. The assertion that the natural family planning method was less reliable than other birth control methods was simply incorrect.

19. A recent article in the British Medical Journal maintained that the Catholic Church had been perceived as being opposed to birth control and had therefore been seen as a threat to family planning, on the basis of the view that natural family planning - the only method approved by the Church - was unreliable and ineffective. It further contended that, according to the World Health Organization, research conducted over a period of 20 years had demonstrated that 93 per cent of all women could tell when they were fertile and when they were not; and that the natural planning method had been shown to be as reliable as other methods. It had concluded that, since the natural method was cheap, effective and entailed no side effects, it should also be especially acceptable to populations living in poverty. Furthermore, an article published in the Lancet had hailed natural family planning as the only method by which a couple could control its fertility regardless of economic status and argued that, while it had once been postulated that periods of abstinence might be detrimental to relationships within the family and even that abstinence was unnatural, the widespread availability of the birth control pill had in fact coincided with the disintegration of both marriages and families. While the temporal coincidence could not be seen as establishing a link, scientific data was no doubt essential. A third recent article asserted that the mistaken idea that Catholicism was synonymous with ineffective birth control should be laid to rest.

20. The Holy See also disagreed with the view that more population meant more poverty; its own view was that more poverty meant more population. In the long run, that approach was sure to prove more effective.

21. Father ROCH (Holy See), replying to Mr. Mombeshora, said that he much admired the way in which certain African cultures turned their ancestral customs to good use in finding solutions to problems. In the view of the Holy See, cultural research into those so-called "primitive societies" that were so rich in human values, would be far more fruitful than current socio-anthropological studies in achieving an understanding of the relationship between customary practices, fertility and family planning.

22. Replying to a question raised by Miss Mason, he said that the children of separated parents should under no circumstances be refused enrolment in Catholic schools. He knew of no doctrine suggesting that such should be the case. If a child was refused entry on that basis, his case should be brought either before the civil courts or before the courts of the Episcopal Conferences, so that no similar case would be allowed to occur in future. The separation of parents should certainly not be used as a justification for hindering a child's intellectual development.

23. The Holy See recognized that violence occurred within the family. In the case of incest - an especially egregious form of violence - the best interests of the child must be foremost and the interests of the family could no longer be seen as taking precedence. Action must be taken to protect the child from psychological and moral trauma and the case must be brought before the appropriate authorities. Corporal punishment, on the other hand, was a matter of considerable controversy; one important element to consider was the climate in which such punishment was inflicted. If it was delivered with love, moderation and discretion, for disciplinary purposes, it was acceptable; if it was administered with hatred, it was not. Disciplinary measures must also correspond to the maturity of the child; the same treatment could not be given to children of different ages. He stressed, however, that his comments did not constitute the set doctrine of the Holy See. In his view, corporal punishment should not be banned until such time as psychoanalysts, sociologists, jurists, doctors and educators agreed.

24. The CHAIRPERSON reminded the delegation of the Holy See that the membership of the Committee was drawn from many disciplines, including sociology, medicine, law and journalism. All members nevertheless agreed on the fundamental principles embodied in the Covenant.

25. Miss MASON said that the question of discrimination, as dealt with in the Convention was closely related to the concept of discrimination on the basis of sex. The Convention furthermore guaranteed children the right to be educated, one of the aims of education was to prepare children for an active adult life in a free society. The 1981 Apostolic Exhortation stated that women should have the same rights as men to perform various public functions and recognized that, although the vocations of women and men might differ, their equal rights should be promoted in so far as possible. But what of girls who possessed a natural inclination or vocation for the priesthood? In

the view of the Holy See, did denying them the possibility of entering the priesthood discriminate against their right to pursue their natural vocation in a free society?

26. Mr. MOMBESHORA said he was aware that the Holy See accepted the idea of family planning; the choice of method was nevertheless at issue. As a doctor in Zimbabwe, he had taken on a patient in her ninth pregnancy who had said that she did not want to have any more children; despite his advice, she had nonetheless continued to use the natural method. But after her sixteenth birth, she had admitted that she had placed her faith in a method that did not work. In Zimbabwe, practices based on ancestral belief were indeed prevalent, among them the idea that breast-feeding slowed the pregnancy rate. It had been shown, however, that, although breast-feeding paced the occurrence of pregnancies, their number was ultimately the same. Beliefs varied widely; any cultural research of the kind mentioned by the Holy See would have to be conducted not only among all the rural populations of the world, but also among urban populations, where traditional cultures were dying out. And in the final analysis, the problem of which method work and which did not would still have to be faced: it was essential that doctors should inform their patients of all the possible alternatives.

27. Father ROCH (Holy See), replying to the concern expressed by Miss Mason, said that the priesthood could not be seen as a "natural" vocation either for men or for women. It was a gift communicated by the Holy Spirit, the third person of the Holy Trinity, through the agency of Jesus Christ, saviour of mankind. The vocation of women in the world was maternal and magnificent; the priesthood, on the other hand, was a "paternal childbirth", bestowed by Christ on certain men so that the love of God could be perpetuated on earth. That theological concept - above all a matter of faith - was perhaps difficult for the members of the Committee to comprehend. The Holy See did not discriminate because the vocation to the priesthood was not a right.

28. There were of course dramatic and extreme cases in the world and Mr. Mombeshora had known how to place them in context. Family planning was a particularly difficult issue. The Church imposed nothing. It made proposals and left it for everyone to take a decision before God.

29. With regard to societies which were said to be primitive, but were rich in cultural values, it should be asked whether they faced the dangers of urbanization, rapid development and the delinquency of young people in the major cities. Such development models were perhaps not acceptable. The Holy See looked at the entire world and asked whether, in view of galloping urbanization in countries needing support, a policy of economic and social development was really the answer.

30. Miss MASON, referring to children covered by special protection measures, said that the report mentioned the initiative taken on behalf of children in conflict with the law. However, prevention was always better than cure and she would like to know whether the Holy See had any policy concerning the trade in and the production or supply of arms, which had caused havoc in the lives of so many children. She asked whether the Holy See intended to issue an Apostolic Exhortation, given the fact that most mine-producing countries tended to be of the Catholic faith.

31. Mr. BUONOMO (Holy See) said that, in March 1995, the Holy See had published a document concerning the weapons trade and, particularly, the destination of money intended to be used to produce such weapons. It had referred to the possibility of changing that destination for development purposes. Another recent document by the Pope had been issued in Yaounde. It denounced the traffic in arms and called on all Catholics to try to bring about a change in that practice in all countries.

32. Mrs. EUFEMIO, referring to the issue of child begging, said that countries with a Catholic population faced a dilemma with regard to the question whether or not to give money to a begging child. She would like to know what was the position of the Holy See on that issue.

33. Mrs. KARP asked what were the differences in the documents mentioned, especially with regard to the rights of the child in connection with problems such as sexual abuse in the family.

34. Father ROCH (Holy See), referring to the questions asked by Mrs. Eufemio, said he hoped that the Committee would be able to propose a method that would make possible the disappearance of the shame caused by begging children. If a child's survival was at stake, then of course he should be given something. But that did not mean that, in giving, the causes of the problem should be forgotten. There were people in the Philippines who were trying, in coordination with NGOs and State bodies, to analyse the problem of child begging. What was the role of the family of a begging child and what was the role of his immediate environment? The Church had to become a full partner and try to solve the problem of child begging, which constituted a shame for the twentieth century and should be dealt with by the entire world.

35. Sexual abuse in the family was especially dishonourable for the family and degraded all of mankind. Where there was sexual abuse for which criminal penalties were applicable, the State should intervene. The Holy See was aware of that situation which it left to the State to correct.

The meeting was suspended at 4.30 p.m. and resumed at 4.55 p.m.

36. Mr. KOLOSOV welcomed the fact that the Holy See had ratified the Convention and submitted a report to the Committee, even though it was not in keeping with the Committee's guidelines. However, that shortcoming had been explained during the dialogue with the delegation of the Holy See.

37. The Committee regretted that the reservations formulated could not be withdrawn because that would be contrary to the teachings of the Catholic Church. Since the Vienna Conference on Human Rights in 1993, however, other important conferences had invited the States parties to the Convention to withdraw all their reservations or at least to consider the possibility of withdrawing them. That was the policy of the Committee in its dialogue with other States parties. The Committee must draw attention to the fact that the reservations by the Holy See should not be used as justification for reservations by other States parties.

38. Given the importance of the moral jurisdiction of the Holy See, the Committee could commend the Holy See for its advocacy of the Convention, but he hoped that such advocacy would not be contrary to the general principles of the Convention.

39. He was concerned that, contrary to the philosophy of the Convention, the child was not regarded by the Holy See as a full subject of his or her rights. Furthermore, the principle of non-discrimination was not fully reflected in the Holy See's policies and activities.

40. In conclusion, he welcomed the readiness shown by the delegation of the Holy See to answer all the questions raised and expressed the hope that the Holy See would continue to do all it could for the benefit of all children throughout the world.

41. The CHAIRPERSON, summing up the discussion, said that the Holy See had done a great deal, not only within the framework of the drafting of the Convention, but also with a view to making countries more aware of the need to ratify and promote the Convention.

42. The Convention was the only United Nations instrument that called on the international community to combine efforts in order to improve the situation of children throughout the world and the Committee was aware that the Holy See was prepared to cooperate with it to promote the rights of the child.

43. Monsignor TABET (Holy See) said that his delegation appreciated the recognition of the role played by the Holy See in the world. It also welcomed the atmosphere of understanding and open dialogue that had existed during the meetings with the Committee. As a result of the discussions that had taken place, the Pontifical Council for the Family intended to establish three reception centres for street children in Brazil, the Philippines and Rwanda.

44. In conclusion, he expressed the hope that the channels of cooperation would ensure that the effects of the Holy See's spiritual efforts were felt throughout the world.

The meeting rose at 5.05 p.m.